

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE	:	BANKRUPTCY NO. 06-11681
JAMES J. HITE, DEBTOR	:	CHAPTER 7
:		
GREEN TREE CONSUMER	:	DOCUMENT NO. 65
DISCOUNT CO., LLC, Movant	:	MOTION FOR FEES, COSTS AND RENT
vs.	:	
JAMES J. HITE, Respondent	:	
:		
CARL F. MILLER, Movant	:	DOCUMENT NO. 84
vs.	:	MOTION FOR SANCTIONS
GREEN TREE CONSUMER	:	
DISCOUNT CO., LLC, DAVID J.	:	
DEMERS, ESQ., and DEMERS &	:	
ADAMS, LLC, Respondents	:	

MEMORANDUM

Before the Court is the Motion for Fees, Costs and Rent filed by Green Tree Consumer Discount (“Green Tree”) and the responsive Motion for Sanctions filed by Carl F. Miller (“Miller”).

Green Tree seeks damages from Miller for delay in obtaining relief from the automatic stay. Green Tree negotiated with Miller for payment of an amount for the satisfaction of Green Tree’s mortgage liens and after negotiating an agreed amount, Miller elected not to go forward.

Miller occupied the property as an equitable owner under an Article of Agreement with the Debtor. The Article of Agreement provides for specific remedies upon default. If Miller defaulted, the Debtor or Chapter 7 Trustee could declare the agreement null and void or sell the property and distribute the proceeds in a stated order of priority. We fail to see how there can be a rent claim against the equitable owner. While Green Tree experienced delay, it was free to pursue its Motion for Relief rather than negotiate with Miller. Green Tree necessarily filed its

Motion for Relief and any additional fees and costs would have been minimal and we find no basis to impose an award against Miller.

On the other hand, Green Tree's Motion for Fees, Costs and Rent was not frivolous and it was entitled to pursue same to conclusion.

For the above reasons, both Green Tree's Motion for Fees, Costs and Rents and Debtor's Motion for Sanctions will be denied. An appropriate Order will be entered.

Dated: October 2, 2007

/s/ Warren W. Bentz

Warren W. Bentz
United States Bankruptcy Judge

c: James M. Greenfield, Esq.
David J. Demers, Esq.

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ORDER

This 2nd day of October, 2007, in accordance with the accompanying Memorandum, it shall be and hereby is ORDERED as follows:

1. The Motion for Sanctions filed by Carl F. Miller at Document No. 84 is DENIED.
2. The Motion for Fees, Costs and Rent filed by Green Tree Consumer Discount Co., LLC at Document No. 65 is DENIED.

/s/ Warren W. Bentz

Warren W. Bentz
United States Bankruptcy Judge

c: James M. Greenfield, Esq.
David J. Demers, Esq.